IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE JURISDICTION

WRIT PETITION NO.4948 OF 2006

Shri Sunil Shankar Phapale ...Petitioner.
V/s.
1.Thane Municipal Corporation
School Board, Thane & Anr. ...Respondents.

Shri N.V.Bandiwadekar for the Petitioner.
Shri R.S.Apte for Respondent Nos.1 and 2.

CORAM: B.H.MARLAPALLE &
J.H.BHATIA, JJ.
DATE : 15th December, 2006.

P.C.: (Per J.H.Bhatia, J.)

1. Rule. Rule made returnable forthwith with consent. Heard counsel for both sides.

2. The petitioner came to be appointed as an Assistant Teacher with the respondents since 1993. As in a criminal case registered under Sections 384 and 420 of the Indian Penal Code by Mumbra Police Station he was arrested and was in detention for more than 48 hours, he came to be suspended on 27-12-2005. However, after trial by the impugned judgment and order dated 10-5-2006, he was acquitted by the learned Magistrate. The State has not preferred any appeal against that

order of acquittal. In view of the said order of acquittal, on 22-6-2006 the petitioner was reinstated by respondent no.2. On 29-6-2006, respondent no.2 again issued an order revoking the order dated 22-6-2006 about his reinstatement and directed that his suspension order shall continue. Against that order, representation was made by the petitioner but no action was taken.

3. The impugned order dated 29th June, 2006 reveals that in response to a starred question raised in the Legislative Assembly, a letter dated 28-6-2006 was issued by respondent no.2 to the effect that disciplinary action is to be taken against the petitioner and, therefore, the reinstatement order dated 22nd June, 2006 was being cancelled. According to the petitioner, no departmental enquiry has been initiated against him and once, he was reinstated because of his acquittal, there could not be any justification to revoke the order of reinstatement unless departmental enquiry was initiated.

4. Shri Apte, the learned counsel for the respondents concedes that so far no departmental enquiry has been initiated. In view of this, it appears that respondent nos.1 and 2 have not yet made up their mind as to whether departmental enquiry should or should not

be initiated nor any action in that direction has been taken in spite of the order dated 29th June, 2006. In the circumstances, it appears that the order revoking the reinstatement order was without any justification.

5. In view of the above circumstances, respondents are hereby directed to reinstate the petitioner to his post as Assistant Teacher with all consequential benefits.

6. Rule made absolute in terms of the aforesaid directions.

(J.H.BHATIA,J.) (B.H.MARLAPALLE,J.)